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REASONS AGAINST AGREEMENT

with a late Printed Paper, intituled,

Foundations of Freedom:

OR,

The Agreement of the PEOPLE.

Whereby it doth appear, that the
Particulars proposed in the said Paper are not *Foundations of Freedom*, but of *Tyranny and Slavery* to the
People; being *destructive to Religion, Laws, Liberty,*
and *Government*; against our *Covenant and*
Protestations, and very dangerous and un-
safe for the Kingdom.

By WILLIAM ASHURST Esquire.

A. W.

LONDON:

Printed for *The Underhill*. 1648.

TO the READER.

Have no more to say to the Reader, but That when I had considered the Printed Paper, intituled, *Foundations of Freedome, Or an Agreement of the People*; I was very much unsatisfied with it, and so were others I met with: And finding that the differences upon it would fall out amongst those who are obliged to friendship and agreement both for the good of the Kingdom and their own good, I thought it unchristian and unsafe, to let so great dissatisfactions lye privately heating together, untill they might kindle into an hotter flame of discontent, especially it having ever been (as it is still) my opinion (which I have not hid) that differences in this case should be ended by Reason, not by Opposition: And seeing the Publisher of the Paper calls upon every man for his Reasons against it, I have here brought him mine under my hand, wherein although I am sensible that I may discover my own weaknesse and folly, yet I ever hating all private Contrivances, or to do any thing of publick Concernment in a Corner, have judged it more honest (and that shall ever go for wisdom with me) to use plain dealing, which if it be (according to the Proverb) a jewell, I am sure was never more precious then at this time.

W. A.

REASONS AGAINST

*Agreement with a late Printed
Paper, Intituled,*

An Agreement of the People.

THe Publisher of this Paper called, *An Agreement of the People*, tells us, that it was tendered to the Consideration of the Generall, and Counsell of the Army; but before it was approved by them (which I hope it never will) he held it jult to be published, that men might offer their Reasons against it: wherein he is so ingenious, that however both the Epistle and Paper might give occasion to some personall Reflections, yet I will onely give him fairly my Reasons why I cannot agree to this Paper; having for the more clear proceeding first layed down the most principall parts of this Agreement, which (as I take it) is Briefly, *That the People who shall subscribe this Paper shall agree, To take away this Parliament, And to choose an equall Representative consisting of 300. men, who shall have full power without the Consent or Concurrence of any other person or persons, (either King or House of Peers) to make, Repeal, Alter, and Declare Laws: and that none do resist their Laws or Orders upon pain of death, except such Representatives expressly violate this Agreement, and they shall have power to choose a Councell of State for the managing of publick affairs: But that they shall not have power to continue in force, or make any Laws, Oaths and Covenants, whereby to compell by penalties or otherwise any person to anything in or about matters of Faith, Religion, or Gods worship,*

worship, or to restrain any person from the professing his Faith, or exercise of Religion, according to his Conscience in any house or place, except such as are or shall be set apart for the publick worship, nevertheless the Instruction or directing of the Nation in a publick way for the matters of faith, worship, or discipline, so it be not compulsive, or expresse Popery, is referred to their discretion: with like restriction in other matters of lesse consequence.

I am very much unsatisfied with this Paper, both for the manner and matter of it, for these Reasons.

1 Reason.

First, Because it proposeth, that the People (or rather some small part of them) without any colour of Law or right, should agree together to alter the present Government, and to take away a legall right from Burroughs to choose Members to the Parliament; which admitted, they may with as much Justice and Right agree to take away any Law, or any mans life or estate, by which Rule we should enjoy nothing but at the will of any number of men that would call themselves The People. And upon the same ground that those who shall subscribe this Agreement may call themselves the People, might those who shall refuse to subscribe it, and those who are not admitted to subscribe it, both call themselves the People, And at any time hereafter pretend like right to do the same, or like things; which must lay a foundation of certain Confusions. Neither can there be assurance of any settlement whatsoever in this way for what those who call themselves the People agree upon now, they may alter within a moneth, or sooner if they please.

2 Reason.

Because if there were a right by this way to alter the Government (as there is not) yet it is not reasonable to attempt so great a matter, the Consequences whereof must be of so vast concernment to the Kingdome, before the inconveniencies of the present Government have been plainly discovered, and solemnly debated: And being found out, tryall had been made whether by the present unquestionable power there might not have been found a remedy either by some Additions, or smaller Alterations, without putting things to so great an hazard as an attempt to make a totall Alteration in the Supream Power, must

must bring, and that without offering any Reason for it.

Neither is there onely these generall Reasons against the whole Paper, but if the subject matter of it, and the proceedings intended thereupon were lawfull, yet there are many Reasons against the particulars in it, which I shall proceed with.

Because it doth propose to take away (not onely this King) ^{3 Reason.} but all Kings, and the House of Peers out of the Supream Judicatorie of this Kingdom, and that for ever, without shewing any necessitie of it; which the Papists, Delinquents, and ill-affected persons amongst us (well perceiving how great a distraction it would bring) did frequently charge upon this Parliament as their designe, whereupon to vindicate themselves from such aspersions, they have made and published severall Declarations, that they would not alter the Government of the Kingdom by King, Lords and Commons; And this Kingdom having had so many hundred years experience of this present Government, in the most part of which time they having lived in peace and plenty; And when any warres have heretofore happened between the King and the people, no such alterations being ever desired or attempted. It is not imaginable that they will now desire to change it for they know not what, for so are all alterations of Government untill the conveniencies or inconveniencies be found out by experience. All I will further adde upon this Reason is, that this poore wasted Kingdom doth not stand in need of so great a division and distraction in the course of all proceedings at home, and to incur such dangers from abroad; as would in reason be the consequences of this Alteration.

Because this Paper proposeth the absolute taking away of ^{4 Reason.} the power and Priviledges of the Parliaments of *England*, which we are bound to preserve and maintain, not only as Englishmen but as Christians; most part of the Kingdom having solemnly sworn it to the most high God, And one to another in the Vow and Protestation of the 5th. of *May*, 1641. wherein we further vow and protest, to oppose, And by all good wayes and means endeavour to bring unto condigne punishment all such as shall either by force, practise, or Counsels, plots, Conspiracies, or other-

otherwise do any thing to the contrary. And likewise in the Solemn League and Covenant of 27th of *Septemb.* 1643. not onely we in this Kingdom, but the most part of the Kingdom of *Scotland* have sworn to preserve the Rights and Priviledges of the Parliaments in both Kingdoms. Now the Paper doth not onely propose, to take away the Rights and Priviledges, but the Parliaments of *England* themselves, as they were constituted when these Oaths were taken, to which the words according to the literall sense of them (which is the rule of Oaths) mult relate, for we could not swear to that which was not, or to something that was only like a Parliament: therefore no man (as I conceive) who hath taken either the Vow and Protestation, or the Solemn League and Covenant, can agree to this agreement, unlesse he dare make himself guilty of most palpable & notorious perjury.

5 Reason.

Because it proposeth the taking away this unquestionable legall Parliament onely by a forceable agreement, without any Authority: And in the room of it to settle a Representative which hath not so much as a colour of legall right: by which means, although force and power may hinder this Parliament from acting, yet the being of it cannot be taken away, but by the like Law that made it. So as we shall have a Representative that will pretend to a Legislative power, and a Parliament who ought to have it both in being at once, which may leade the Kingdom into miserable uncertainties and distractions, when any number that will make an House of Commons, and any number that will make an House of Peers assembled in any place within Westminster, will have more power to make and repeal Laws then these Representatives, although all were done that the Paper desires.

6 Reason.

Because there is such a desperate encroachment upon the Liberties of the people of *England* proposed in the Election of this Representative; it being a known Maxime in Law, that no power could lawfully impose upon the liberties or properties of the people of this Kingdom, but either by their particular consent, or generall assent in Parliament where every man is represented. But by this Paper, as well all those who have been most faithfull to the Parliament and Kingdom, and hazarded

zarded their lives and estates in this cause (if in Conscience they cannot subscribe this Agreement) as the Delinquents and Papists that are most of all obnoxious to the Law, shall be debarred from electing or being elected, yet they shall have Laws and taxes imposed upon them, and by them who for number are the least partie in the Kingdom, and by those to whom they give no consent nor trust; which is as perfect slavery, as any Tyrant could impose upon them.

Because the declaring of Agreement with this Paper by Subscription, will not onely be a means more to draw, but also to keep those who have adhered to the Parliament in this cause in parties, factions and divisions : For after they are once all distinguished by subscribers or non-subscribers, it will make them more strange one to another, and to withdraw that affection and confidence from each other that is necessary for them as Christians, and as wise men; who should rather studie how to finde out wayes of Union for their mutuall preservation against the Common Enemy, then take this course which I fear may prove a way of great danger to us, because it will increase jealousies in those who must be non-subscribers; that though they are now only made incapable of publick trust and employment, yet they are not secure, but they may be proceeded against further afterwards by the new Representative unto high (if not the highest) punishments : which doubts and fears will increase, if the Supream Power be wholly put into the hand of a party who differ from them in principles of Religion and civill Government, and they have no visible security before-hand to enjoy Religion and their Liberties; the want of securing whereof, as it made many of them refuse to agree with the King, so will it binde them from agreement with any Power on Earth; upon which ground it is to be feared they cannot but look upon themselves as under oppression, both in their Liberties, Properties, and Consciences : wherein I speak the more freely, that every man might labour and endeavour to prevent such breaches, especially amongst those which fear God, and that none of them might adhere to this Paper, wherein it is especially to be noted, that all the distractions, divisions, evils and inconveniences

7 Reason.

iniences that shall happen upon either subscribing or not subscribing, is onely to those who have been united in this cause, the Common Enemy being thereby strengthened, united, and kept from the rest of this Subscription.

8 Reason.

Because this will tend to the utter subverting and taking Away Magistracie and Government out of the Kingdom, not onely by placing such a supream power (under whom all subordinate do Act) as at least will be disputed; And thereby that distance and Reverence that God hath put upon his Ordinance of Magistracie being removed, it is like to fall into Contempt; But by this Paper the Laws and Orders of this Representative shall not binde, or be of any force even to those who agree and subscribe to the Paper. For although it seems to put the penalty of death upon the resisters of their Orders, yet there is one little exception that makes it lawfull for all men (especially that have power) to resist and disobey them, the words are these: *Except such Representative shall expressly violate this Agreement;* which leaves every man to be a Judge of it, there being by this Paper no other power Intended to be Above this Representative to judge it; Nor doth it Appoint either how, or by whom, this Judgement shall be made: Therefore every man that will but say they have broken this Agreement, and hath power to make it good, shall not offend, but justifie his disobedience, or opposing of their Laws or Orders by force; And where there is this principle that Judgement is out of the legall Judges, there can be no Magistracie, Authoritie, or Government. It is true that (there being no perfection in any thing here belowe) all Judges and Supream Authorities may erre, and do evill; but if upon that ground any multitudes should be their Judges, is not the Reason as good, and much more strong, that those multitudes (who cannot be judged) may erre, and do evill, by how much they are Acted by fancy, and as they are possessed by others, And according to their sudden and present Apprehensions, rather then by principles, Reason, or Judgements, neither are they bound by those Considerable Interests to seek the good and tranquillitie of the Kingdom, that usually those have who are called to be Judges; and especially they are not so obliged in

in duty to God, because the Magistrates are called by God to be Judges; therefore they must judge righteously, as they will answer it to him upon highest penalties, *The loss of their souls*. I might further shew, that by the Morall Law, the Law of nature, and the positive Laws of God, Judgement doth wholly rest in the Magistrate. But this point being only for the more abundane clearing, yet not of absolute necessity to this Reason, I will insist no further upon it, there being enough to demonstrate, That it no man ought to be punished for opposing any Law or Order of this Representative, *if they break this Agreement*, and that every man may be his own Judge whether they have broken this Agreement or no; then although there may be a colour, yet there is really no Authority in this Representative: And if not in this, which is to be made the Supream, then much lesse have any inferiour Judicatories that shall act under them; and so that great Ordinance of God, Magistracy, whereby he preserves humane society, shall be taken out of this Kingdom.

Because this Paper allows a Toleration of Popery, only with a restriction to the Magistrate, that he shall not instruct or direct it publicly; But both he, and all the people that will, may profess, and practise it in their houses, which is a large step to introduce the publick profession of it; especially seeing that by gaining thus much, this just plea will lie for the freedom of it: That there is no reason to except Popery, when those that are guilty of Atheisme, the deniers of God, or any Person in the Trinity, The greatest blasphemers, and cursers of God, with those that profess any heresie or errour have their liberty, and are not excepted, and therefore by these principles (in Justice) Popery must likewise go out free, although it may be judged no policy to speak it out at this time. When I consider this, together with the other parts of this Paper, which only tends to divide those who have adhered to the Parliament and Kingdom in this cause, and see what care is taken (to the end we might be the better destroyed) that nothing be proposed which might divide the common Enemy amongst themselves, but they must remain intire, and united (which I did intend for a distinct Reason against the Paper.) This is a plain discovery to

9. Reason.

me, that the whole was made and contrived by some Jesuite, with the advice of some of the Kings old Counsellors; although it is possible that some honest men may be cozened into the acting of it for them. But to return to the point, Here we have a Magistrate that hath neither compulsive nor restrictive power in matters of Religion, but both he and the people are freely left to be of any Religion that they please, or of no Religion if they please; yet the Magistrate (if it stand with his discretion) shall have a Toleration to instruct and direct in a publike way (all that will be instructed and directed by him (for all are left to their liberty) in matters of Faith, Worship, or Discipline, whereby he is at liberty to instruct according to truth, or in an error, so that for the present it be not Popery, yet in truth the best contrivance to build up Popery at last upon the ruines of Religion by Atheism and prophane-nesse; which the more it is considered, the more it will be abhorred by all honest and godly men in the Kingdome. If I had more patience I might say much more upon this Reason, but I think this is enough.

10. Reason. Because it will leave *Ireland* to the Rebels: and the Protestant party and Forces there, to misery and ruine: not only by our distractions, but because the managing of the War of *Ireland* is in this Parliament, wherein the new Representative will have no Authority.

11. Reason. Because it tends to divide us from *Scotland*: the particulars held forth in this Agreement being directly contrary to the declared principles both of that State and Church, and destructive to all the faithfull in that Kingdom both Ministers and people; that have adhered to us in this Cause.

12. Reason. Because it destroys the Cause for which we have fought, wherein so many Noble and Gallant Gentlemen, and others, have not only hazarded, but lost their lives. The quarrell first beginning upon the Kings imposing on the Power and Priviledges of Parliament, and interrupting their proceedings. Afterwards those that joined with the King in this Warre (although it was so foul an act destructive to the Liberties of the Kingdome, that they professed the contrary, yet it was apparent that they) did fight to destroy this Parliament; Therefore to join with

with others to take away this Parliament by a forcible Agreement, is to do the enemies work, and give them the Cause. And is against the great Trust which hath been, and is given by the Parliament to all the Souldiers that have had, or have Commissions from them, wherein they are specially intrusted to fight for *The preservation of this Parliament*. And when all Souldiers do well consider, that without the Authority of this Parliament their taking up Arms were Treason, and their killing of men were murder; and that it is the Authority by which they have indemnity and present pay, and security for their Arrears, and that as the change of Authority would make many questions in other things, so would it do in these. It being also evident, that as the Parliament cannot well be without their Forces, so they cannot be without the Parliaments Authority. Upon all these considerations, the Souldiers have reason to be against this Paper, which proposeth by Agreement to take away the Cause they have fought for.

Because although there were a quiet possession of all that is desired in this Paper, yet it were not like to stand long, the interests of all that are most considerable, obliging them to be against the keeping of this Agreement. For instance. In reason all Kings will be against it, for they, and their Heirs, and Successors are utterly excluded out of this Government. The Peers will be against it, there being likewise an exclusion of the House of Peers. The Souldiers will be against it, because it offers forcibly to take away the Parliament they have fought for, whose Authoritie gave them a being as Souldiers, and under whose Authoritie they act. The Magistrates or people of that quality capable of government will be against it, because it leaves at the best but the colour of a Magistrate, with no power but such as is alterable, and revokable at the pleasure of any multitude. The faithfull and conscientious Ministers will be against it, for as it gives them no protection, countenance, encouragement, or assistance by the Magistrate; so it leaves all their people to the practise and profession of Blasphemy, Atheisme, Heresie, Errour and prophanenesse without controll. And it is like that most of the Religious and discreet people will be against it, because it neither provides for increase of
13. Reason.

piety, nor give security for the enjoyment of Liberty or Property, nor hopes of Union, which might bring a settlement and peace. And what sorts of people are left whose interest it would be to preserve this Agreement, I leave any one to consider, whether they will not be only such who because they cannot bring themselves within the protection of the Laws establish'd and present Government, will possibly sign this Agreement, that so they may bring the Law and Government to their wils and corrupt interests; for so indeed they do that subscribe this Agreement. No obedience being to be given to this Representative, but in their keeping this Agreement; and there being no other Judges thereof but the Subscribers, who in the result of all have the Law in their own wils: Upon all which grounds, there is no hope that this Agreement if it were made (as is desired) would either preserve it self, or that any who were most considerable, could be obliged to keep it, so as nothing could be expected from it but to be a foundation for new confusion.

I will close these Reasons with this profession, That I am far from arguing that this Parliament should not (in this manner) be taken away out of any base or low end, that I might still continue a Member of it, for I dare and do appeal to God, who is the searcher of all hearts, that I know no outward thing to befall me, that I should account my self more happy in, then to be legally discharged from that Service. But in this way to tear up the very foundations of all Government, and to tear up so miserable a thing in the room, It behooves every true hearted Englishman that sees it to be sensible, not for his own, but for the Kingdoms sake: and that really set me on work at this time.

I shall now onely adde some short generall observations upon severall particulars I finde at the end of this Paper prepared already for this new Representative; wherein are desires to this purpose.

That no mans life be taken away but for Murther. That no man be Imprisoned for Debt: That no Tythes be paid: That there be no restriction (which is no Regulation) of Trade. That there be no Lawyers, nor Law, but new Rules in English, to be made by the new Representative; And twelve men in every Hundred

Hundred, to be Judges of all causes; who are likewise intended to supply the Offices of all Mayors, Sheriffs, Justices of Peace, Deputies, &c. These are the desires of them who labour for a new Representative instead of Parliaments. And it seems they hope to choole such a Representative as will grant them all. Indeed if these must be had, I agree there is a necessity (by some means or other) to take away this Parliament; for I beleve that they would never grant such things, as the making of Laws in the favour of Treasons, Burglaries, Felonies, Sodomy, Buggery, Rapes, and such like abominations, from which the punishments of death is (by these men) desired to be taken off, especially considering that the many good Laws which have been made under highest penalties (as now they stand) do not hinder nor deterre men from those foule offences which are daily and frequently committed in all parts of the Kingdom; and therefore there rather appears need of stricter provision against them.

But when the new Representative shall take these things into consideration, they may finde that there will be no need to take away any penalties from Malefactor, by a Law to keep them from Justice, if they do but grant the Hundred Courts as is desired (who can but sit seldome) and thereupon all Mayors, Sheriffs, Justices of Peace, &c. who are Officers ever ready, and by whose Authority the Malefactors are apprehended, examined, committed, and brought to Justice; being taken away, the Offendors are like to go free without any such Law. Especially when these Hundred Courts act the parts not onely of all the Lawyers, but of all the Judges in the Kingdome; And all this Justice to be done, and lye in the breasts of twelve men in every Hundred, who may be choosen of men that can neither write nor have any Estates responsible, if they should be found guilty of Briberie, or any other high misdemeanors: by this means we are like to have Justice at all adventure, be it right or wrong. If I should go over the rest of the store-mentioned particulars, I should not keep my word, for there is so much to be said against every of them, that I could not be short, nor is it very necessary to be done: for in the bare reading of them it

doth too much appear, that they are working to a universall Licentiousness, as well in the Civil State, as in matters of Religion; by which liberty, all truth, and every mans property, with the Government which is the band of humane society, will be destroyed. I had thought to have closed here, but I cannot conclude without a word upon that particular proposed, that no Tythes be paid; because I beleve that taking away the Ministers of the Gospel with their maintenance, lies at the bottome of it: I say so upon this ground: Because I did yet never speak with any man who was for the taking away Tythes from Ministers, without as good maintenance first provided in a settled and certain way (which I could never yet hear propounded) but he was for the taking away the Ministers themselves; and therefore they will not allow that the Ministry is an office ordained by God (although nothing be more clear in his Word) but call them State Ministers, or (as this Paper) publick Ministers, as though they were onely by some politique or civill constitution, and might be taken away at pleasure: then which, nothing can be more contrary to the truth; neither is it onely clear, that there are those in the Church of Christ, whose office it is to be Ministers of the Gospel, but likewise that by an Ordinance of Christ, *They that preach the Gospel should live of the Gospel*: And however it be of a Divine right, that Ministers should have a maintenance, yet the proportion, distribution, use, and enjoiment of it is from, and by a civill right, whereupon they hold and possesse their Tythes by the Laws of the Kingdome; and have as legall a Freehold in their Tythes, as any man hath to his Land. And the Law doth provide full as good a remedy to the Minister for recovering his right of the Tythes, as to an Impropiator, or other man in the Kingdom, for any thing be injoyed. But the Paper saith, it is a grievance and oppression. I beleve it is a grievance to those men that Ministers live, or have any thing: But how comes it to be an oppression? Is it oppression to pay to others what is legally due to them? These men may consider, that if Tythes be taken from the Ministers, or Impropiators, yet there is neither right nor Justice, that they by whom they are payable should have them

to their own use, for they have nothing that might make or derive a right or title to them. They never payed any consideration for them, they did not purchase, nor were they conveyed to them: when their Land was bought, it was under this charge, that Tythes should be paid out of it. In a word, there may as much be said in justice, reason of equity, why they should not pay any quit Rents, Rent Charges, Annuities, or other charges that lies upon their land, as why they should not pay Tythes: And doe but give them Tythes upon their crying out that it is a grievance and oppression, and they will in a short time (I am confident) upon the same grounds, cry out upon all other payments and charges out of their Land; and it is like the Rent to the Landlord will not be paid long after, for they will be all alike a grievance and oppression.

I do observe that there are two notable peeces of justice in the consequence of this particular of theirs.

First, That the Impropiator shall be satisfied (yet I know not how, where, or by whom) before his Tythes be taken away. Yet the poor Minister that holds his by as good a Law and right, shall have his first taken from him, and play an after-game for his maintenance which might gain their point; when by that means they might be driven from their Churches to go abroad to beg, because they cannot work.

And the other is, That they would have this now Representative to take Tythes from the Ministers, to whom they belong in justice and right, and to give them unto other people who have no right at all to them. And when they have got the Ministers Tythes, then they propose that they may have maintenance. Provided alwaies, that (it being against their Consciences) they may pay them nothing: Nor others pay any thing, all payments being oppressive, and they are to have nothing but in an unoppressive way. By all which it appears, that they intend to take away the Ministers, and get their means to themselves for their pains. I do not in this plead my own case, for I do and shall willingly pay Tythes, but I receive none.

I have thus lookt into these *Foundations of Freedom*, and told you in part what I have seen, wherein I must leave every Reader

Render to his own judgement: I shall only upon the whole manner
 give you mine. That under the colour of laying new foundations,
 all the old Foundations of Religion, Parliaments, Laws, Liberties,
 and Properties: are strongly endeavoured to be undermined, pluckt
 up, and destroyed. And all the materials I finde brought to this new
 new building are such (in my judgement) as only tend to Licen-
 tiousness; therefore it shall be against my will if I live in it, or
 neer it, because it hath no ground, work, For here is a Government
 without Authority, A Magistrate without power; If a Minister yet
 without maintenance. A People left to be of any Religion, or of all
 Religions, or of no Religion as they please. It is therefore (in my
 judgement) altogether unsuitable to any who desire to live soberly
 righteously, and godly in this present world. Yet notwithstanding
 I would not be so angry with those that should offer it, as to re-
 solve presently to fall out with them, I would remember that it
 hath still been our enemies work to divide us, *England from Scot-
 land*, and one from another: Let it still be our work to unite, and
 not be so wicked and unwise, as to ruine a righteous cause, and our
 selves with it. But let us lay aside this Paper, and all dividing and
 party Projects, and make it our study how to satisfie and secure one
 another, that we may live in love and peace; Which as it hath ever
 been my hearty desire, so it shall ever be my faithfull endeavour,
 and most earnest prayer to that God, who our of all these shakings
 is only able to bring a good settlement to this poor distressed
 Kingdome.

F I N I S.